

## REMARKS

The Office Action dated May 27, 2004 has been received and carefully studied.

### Claim Amendments

Claims 1, 7 and 18 have been amended to more particularly point out and distinctly claim the present invention as described below. Claim 22 is new.

### Restriction Requirement

In response to the Examiner's restriction requirement under 37 C.F.R 1.142(b), Applicant affirms the election of Group I (claims 1-12 and 18-21) and withdraws claims 13-17 from prosecution, without prejudice to re-file these claims in a later divisional application.

### Rejection Under 35 U.S.C. § 102(e)

Claims 1-5 and 18 are in the application and stand rejected. Reconsideration is respectfully requested.

The Examiner has rejected claims 1-5 and 18 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,626,092 to Tarlow. The Examiner contends that Tarlow discloses the invention identically as recited in the rejected claims. Applicant submits that the claims, as amended, are not anticipated by Tarlow.

Tarlow discloses a vacuum producing appliance for quickly applying a vacuum to food storage containers (*see, e.g.*, col. 1; lines 35-37). Tarlow's apparatus utilizes a vacuum holding tank 2 and vacuum pump 14 actuated by an electrical switch 11. When a user presses a button 12, a switch 11 opens a solenoid valve 8 and turns on the vacuum pump 14 (col. 3, lines 16-18). Each time the user wishes to evacuate a container, the electrical button of the device must be pressed to accomplish two functions: (1) turn on the pump 14; and (2) open the solenoid valve 8 to provide vacuum, simultaneously from the tank and the pump, to the container. Moreover, while the vacuum pump 14 is automatically turned off by a pressure switch 10 once a set pressure is

reached, the pump 14 must nevertheless be turned on manually by pressing the electrical button 12 (col. 3, lines 19-21).

In contrast, the invention of the present application controls activation of the pump directly from a feedback mechanism which monitors vacuum in the vacuum storage tank to maintain a standing vacuum. Only when the standing vacuum level drops below a certain, predetermined level, is the pump activated by the feedback mechanism to draw down the tank to the desired vacuum level. No manual electrical button is required by the present system to cycle the pump, and pump activation is similarly not required for the evacuation of each bottle.

In addition, the Tarlow appliance relies upon both the vacuum pump and the tank for obtaining the desired vacuum (col 3, lines 21-24). Every time a user evacuates a container, the user must wait for the pump to draw the final vacuum on the container. The Tarlow reference, therefore, does not overcome the problem—solved by the present invention—of many users having to wait for a pump to draw the desired vacuum.

The apparatus of the present invention maintains a standing vacuum provided by a vacuum tank and pump wherein the pump maintains the tank at a standing vacuum for evacuating many bottles before the vacuum reaches a level requiring the pump to activate.

Moreover, Tarlow does not disclose or suggest any structure for relieving the vacuum that is created between the appliance and the container being evacuated. Specifically, in use, an associated vacuum lid assembly 200 is placed on the container to be evacuated and the lid of the vacuum lid assembly is disclosed as being received into the conical recess 23 of the appliance (col. 3, 13-16; Fig. 4). A drawback to Tarlow's disclosed system is that once the vacuum lid assembly is received in the recess and a desired vacuum is achieved, there is no disclosure of releasing the vacuum between the lid and the recess to allow the user to remove the lid from the recess. Depending on the amount of vacuum drawn, and the shape and materials of which the recess and vacuum lid assembly are manufactured, the force required to separate the vacuum lid assembly from the recess may be substantial.

In contrast to Tarlow's system, the present invention provides for a vacuum relief that simply and quickly releases the vacuum created between the stopper of the container being evacuated and the valve head to reach equilibrium with the ambient pressure. Thus, once the desired vacuum is drawn on the container being evacuated, the system of the present invention allows for simple detachment of the container from the valve head. The pending claims have been amended to more clearly recite this aspect of the invention.

Tarlow discloses variations of his invention but in all of the disclosed embodiments, it is the external configuration of the apparatus that is altered, *i.e.*, whether the apparatus is modified so that it can be mounted to a wall or stand independently on a countertop. The vacuum producing features of the invention do not change significantly from one embodiment to the next.

Because Tarlow does not disclose or suggest providing a method or system which enables simple venting or relieving of the vacuum created between the container and the appliance, as recited in amended claims 1 and 18, and for the reasons stated above, applicant respectfully submits that the rejection of these independent claims as being anticipated by Tarlow has been traversed and should be withdrawn. The rejection of dependent claims 2, 3, 4 and 5 should likewise be withdrawn for at least the same reasons.

Rejection Under 35 U.S.C. § 103(a)

Dependent claims 6, 10, 11, 12, 19, 20 and 21 are in the application and stand rejected as obvious under 35 U.S.C. § 103(a) in light of Tarlow. Reconsideration is respectfully requested.

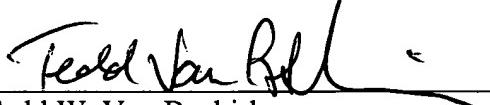
Applicant respectfully submits that Tarlow does not teach or suggest releasing the vacuum created between the appliance and the evacuated stopper/bottle combination as recited in amended claims 1 and 18 and, therefore, the rejection of dependent claims 6, 10, 11, 12, 19, 20 and 21 has also been traversed on the basis provided above.

## CONCLUSION

Each and every issue raised by the Examiner has been addressed by the above amendments and remarks. Withdrawal of the rejections and reconsideration is respectfully requested. Should the Examiner believe that it would advance the progress of the application, the Examiner is invited to telephone the undersigned at the number below.

Respectfully submitted,

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